IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST JANUARY 2007 /

MACA.No. 1679 of 2005()

OPMV.479/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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: APPELLANT/3RD RESPONDENT

UNITED INDIA INSURANCE COMPANY LTD.,
REP. BY ITS ADMINISTRATIVE OFFICER,
REGIONAL OFFICE, SHARANYA,
HOSPITAL ROAD, KOCHI-11.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS: CLAIMANTS 1 TO 6 RESPONDENTS 1,2 & 4 TO 6
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1. SAFIYA V.P., W/O.LATE MUHAMMED,
AGED ABOUT 40 YEARS, VALIYAPEEDIKAYIL HOUSE,
VENGAPPALLY P.O., PINANGODE, VYTHIRI TALUK.

2. ASHIB V.P., D/O.LATE MUHAMMED,
AGED ABOUT 22 YEARS, DO.DO.

3. NISTHAR, S/O.LATE MUHAMMED,
AGED ABOUT 18 YEARS, DO.DO.

4. NISHAR, S/O.LATE MUHAMMED,
AGED ABOUT 16 YEARS, DO.DO.

5. ASHIQUE, S/O.LATE MUHAMMED,
AGED ABOUT 11 YEARS, DO.DO.

6. ARSHANA SHIJIL, D/O.LATE MUHAMMED,
AGED ABOUT 6 YEARS, DO.DO.
(RESPONDENTS 4 TO 6 ARE MINORS, REP. BY THE
GUARDIAN THE 1ST RESPONDENT)

7. ARUMUGAN, S/O.VENKATARAMU,

GAJJALANCTHA, RAMAPURA P.O., KOLLAGAL TALUK, GUNDALPET (VIA), KARNATAKA STATE.

8. RAJASHEKAR B.S., S/O.SIVANNA, M/S.MANIKKANDA STOPRES, M.D.C.C.BANK ROAD, HUNNUR, KOLLAGAL TALUK, CHAMARAJANAGAR DISTRICT, KARNATAKA.

9. A.SURENDRAN, DRIVER, VADAKARA DEPOT, KSRTC VADAKARA.

10. MANAGING DIRECTOR, KSRTC., THIRUVANANTHAPURAM.

11. NATIONAL INSURANCE COMPANY LTD., DIVISIONAL OFFICE, P.B.NO.434, ST. JOSEPH'S PRESS BUILDINGS, VAZHUTHACAD, THIRUVANANTHAPURAM.

BY ADV. SRI.SAJEEVKUMAR K.GOPAL, SC, KSRTC
SRI.P.JAYASANKAR
SRI.KALEESWARAM RAJ

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 1679 OF 2005

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Dated this the 1st day of January, 2007.

J U D G M E N T

Krishnan,J.

A claim application had been filed by the legal representatives of the deceased who died in a road accident. He was aged 50 years at the time of the accident and was running a watch repairing shop. The Tribunal awarded a compensation of Rs.5,00,000/- and it is against that decision the present appeal is filed by the insurance company.

2. Heard both sides. The learned counsel for the insurance company would contend that the Tribunal has erred in fixing the entire negligence on the driver of the vehicle insured by the 3rd respondent and further it had also challenged the quantum of compensation. So far as the negligence aspect is concerned in the other appeal which is disposed of as M.A.C.A.2077/05 no challenge is made against the question of negligence. Further, the Police after due investigation filed a charge sheet against the driver of the vehicle which was insured by the 3rd respondent. In the absence of any material piece of evidence against the charge

sheet, the Tribunal has rightly fixed the negligence on the driver of the vehicle which was insured by the 3rd respondent. Therefore, We find that the Tribunal has not committed any error in fixing the negligence.

3. The next question is regarding the compensation. The learned counsel for the insurance company would contend that the Tribunal has erred in fixing the income at Rs.4,500/- as it is not supported by any evidence. According to the claimants the income of the deceased was Rs.10,000/- and the Tribunal has taken only Rs.4,500/-. After taking into consideration different aspects of the case we find it is just and proper to fix the annual income at Rs.4,250/- and calculate the compensation. If it is done after deducting 1/3rd for the personal expenses the annual dependency would come to Rs.34,000/- and by applying a multiplier of 13 the total loss of dependency would come to Rs.4,52,000/-. So, there will be a reduction of compensation by Rs.16,000/- under the head of loss of dependency. So far as compensation granted under other heads are concerned the Tribunal has awarded only just and proper compensation. Therefore, the M.A.C.A. is partly allowed and the award of the Claims Tribunal is modified and the claimants are awarded a total compensation of Rs.4,84,000/- with 6%

interest on the said sum from the date of petition till realisation and the 3rd respondent insurance company is directed to deposit that amount within a period of 2 months from the date of receipt of a copy of this judgment after deducting the amount which it has already deposited.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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